

O.A.NO.197/2002Order dated 12.5.2004

This Original Application has been filed by Shri Labanya Patra. His grievance is that while he was working as EDBPM, Godapur Branch Office, he was placed under put-off duty with effect from 23.11.1991 which continued upto 31.12.1996. A disciplinary proceeding was initiated against him under Rule 8 of EDA(Conduct & Service)Rules, 1964, by Respondent No.4, which ended in passing an order of removal from service. Being aggrieved by that order, he had approached this Tribunal in OA No. 691 of 1993. The Tribunal by order dated 30.8.1999 disposed of the said O.A. and directed the disciplinary authority to re-examine the matter and decide whether some other form of lesser punishment could be imposed on the applicant or not. In compliance with the aforesaid direction of the Tribunal, the disciplinary authority re-examined the matter and reiterated the punishment of removal from service. Thereafter the applicant preferred an appeal before Respondent No.3. The appellate authority by his order dated 21.6.2000 disposed of the appeal and modified the order of punishment and awarded on the applicant the penalty of debarring him from appearing at the recruitment examination for the post of Postman for a period of three years. The applicant was reinstated in service and took over the charge of EDBPM, Gadapur B.O. on 4.7.2000. On the representation filed by the applicant for treating the put-off duty

period as on duty, the appellate authority by his order dated 28.8.2000 ordered that the put-off duty period from 23.11.1991 to 4.7.2000 has to be treated as period of non-duty. Being aggrieved by this order of Respondent No.3, the applicant has approached the Tribunal for relief.

2. We have heard Shri M.P.J.Roy, the learned counsel for the applicant and Shri A.K.Bose, the learned Senior Standing Counsel for the Respondents.

3. The relief sought for by the applicant in this O.A. is to regularise his put-off duty period from 23.11.1991 to 31.12.1996 as leave without allowances and sanction ex gratia compensation for the period from 1.1.1997 to 4.7.2000. In support of this claim of the applicant, the learned counsel for the applicant relying on a decision of Madras Bench of this Tribunal submitted ~~decided~~ that put-off duty allowance is payable in case of exoneration. He has, however, not been able to make out a case as to how the applicant was entitled to ex gratia compensation for the period from 23.11.1991 to 4.7.2000, i.e., the period when he was out of service. Shri A.K.Bose, the learned Senior Standing Counsel for the Respondents argued that the question of making payment for the put-off duty period did not arise because at the end even on review of the disciplinary case, the authorities did not exonerate him in full and imposed on him one of the penalties for his bad conduct. He, therefore, opposed the relief claimed by the applicant.

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## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

4. Having heard the learned counsel for both sides and having reference to the rules of the Department governing payment of put-off duty allowance and payment of ex gratia compensation on conclusion of the disciplinary case, we see no merit in the claim made by the applicant because in the first instance he was not exonerated in the disciplinary case, and, secondly, normally there is no provision for payment of wages for non-duty period for the ED Agents as per their conditions of service. This O.A. accordingly is dismissed. No costs.

MEMBER (JUDL.)

VICE-CHAIRMAN